

§ 351.312 Industrial users and consumer organizations.

(a) *Introduction.* The URAA provides for opportunity for comment by consumer organizations and industrial users on matters relevant to a particular determination of dumping, subsidization, or injury. This section indicates under what circumstances such persons may submit relevant information and argument.

(b) *Opportunity to submit relevant information and argument.* In an antidumping or countervailing duty proceeding under title VII of the Act and this part, an industrial user of the subject merchandise or a representative consumer organization, as described in section 777(h) of the Act, may submit relevant factual information and written argument to the Department under paragraphs (d)(3)(ii), and (d)(3)(vi), and (d)(4) of § 351.218, paragraphs (b), (c)(1), and (c)(3) of § 351.301, and paragraphs (c), (d), and (e) of § 351.309 concerning dumping or a countervailing subsidy. All such submissions must be filed in accordance with § 351.303.

(c) *Business proprietary information.* Persons described in paragraph (b) of this section may request business proprietary treatment of information under § 351.304, but will not be granted access under § 351.305 to business proprietary information submitted by other persons.

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Subpart D—Calculation of Export Price, Constructed Export Price, Fair Value, and Normal Value

§ 351.401 In general.

(a) *Introduction.* In general terms, an antidumping analysis involves a comparison of export price or constructed export price in the United States with normal value in the foreign market. This section establishes certain general rules that apply to the calculation of export price, constructed export price and normal value. (See section 772, section 773, and section 773A of the Act.)

(b) *Adjustments in general.* In making adjustments to export price, constructed export price, or normal value,

the Secretary will adhere to the following principles:

(1) The interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment; and

(2) The Secretary will not double-count adjustments.

(c) *Use of price net of price adjustments.* In calculating export price, constructed export price, and normal value (where normal value is based on price), the Secretary will use a price that is net of any price adjustment, as defined in § 351.102(b), that is reasonably attributable to the subject merchandise or the foreign like product (whichever is applicable).

(d) *Delayed payment or pre-payment of expenses.* Where cost is the basis for determining the amount of an adjustment to export price, constructed export price, or normal value, the Secretary will not factor in any delayed payment or pre-payment of expenses by the exporter or producer.

(e) *Adjustments for movement expenses—(1) Original place of shipment.* In making adjustments for movement expenses to establish export price or constructed export price under section 772(c)(2)(A) of the Act, or normal value under section 773(a)(6)(B)(ii) of the Act, the Secretary normally will consider the production facility as being the “original place of shipment. However, where the Secretary bases export price, constructed export price, or normal value on a sale by an unaffiliated reseller, the Secretary may treat the original place from which the reseller shipped the merchandise as the “original place of shipment.”

(2) *Warehousing.* The Secretary will consider warehousing expenses that are incurred after the subject merchandise or foreign like product leaves the original place of shipment as movement expenses.

(f) *Treatment of affiliated producers in antidumping proceedings—(1) In general.* In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require